

STATE OF CALIFORNIA
CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY
STATE WATER RESOURCES CONTROL BOARD

DIVISION OF WATER RIGHTS

PERMIT FOR DIVERSION AND USE OF WATER

PERMIT 21025

Application 30391 of **Sweetwater Spring Road Mutual Water Company, Inc.**
c/o Leo J. Becnel
P.O. Box 1094
Windsor, CA 95492

filed on **August 15, 1994**, has been approved by the State Water Resources Control Board (SWRCB) SUBJECT TO PRIOR RIGHTS and to the limitations and conditions of this permit.

Permittee is hereby authorized to divert and use water as follows:

1. Source

Tributary to:

Russian River Underflow

Pacific Ocean

within the **County of Sonoma**

2. Location of point of diversion

By California Coordinate System in Zone 2	40-acre subdivision of public land survey or projection thereof	Section Projected*	Township	Range	Base and Meridian
North 318,000 feet and East 1,755,900 feet	SW ¼ OF SE ¼	16*	8N	9W	MD

3. Purpose of use	4. Place of use	Section Projected *	Township	Range	Base and Meridian	Acres
Domestic, Stockwatering, Fire Protection, Irrigation	Sweet water Springs Road Mutual Water Company - (Gross Service Area of 1,578 acres)					
	SE ¼ OF SW ¼	6	8N	9W	MD	2
	All of	7	8N	9W	MD	558
	SW ¼ OF SW ¼	16*	8N	9W	MD	1
	S ½	17	8N	9W	MD	137
	All of	18	8N	9W	MD	518
	NE ¼ OF NE ¼	20	8N	9W	MD	4
	E ½	12	8N	10W	MD	103
	S ½	13	8N	10W	MD	80
	NE ½	13	8N	10W	MD	136
	NE ¼ OF SE ¼	13	8N	10W	MD	39
					TOTAL	1,578

The place of use is shown on map on file with the SWRCB.

5. The water appropriated shall be limited to the quantity which can be beneficially used and shall not exceed 0.7 cubic feet per second to be diverted from October 15 to April 15 of each year. The maximum amount diverted under this permit shall not exceed 200 acre-feet per year. The total quantity of water to be taken from the source for all uses under Application 30391 and Permit 18538B (Application 26298B) shall not exceed 599 acre-feet per year.

(0000005A)

6. The amount authorized for appropriation may be reduced in the license if investigation warrants.

(00000006)

7. Complete application of the water to the authorized use shall be made by December 31, 2010.

(00000009)

8 Archeological Site Findings - Should any buried archeological materials be uncovered during project activities, such activities shall cease within 100 feet of the find. Prehistoric archeological indicators include: obsidian and chert flakes and chipped stone tools; bedrock

outcrops and boulders with mortar cups; and locally darkened midden soils containing some to the previously listed items plus fragments of bone and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic and metal objects; milled and split lumber; old trails; and structure and feature remains such as building foundations and dumps. The Chief of the Division of Water Rights shall be notified of the discovery and a professional archeologist shall be retained by the applicant to evaluate the find and recommend appropriate mitigation. Project related activities in the area of the find shall resume only after the completion of the recommended mitigation, as approved by the Chief of the Division of Water Rights.

(0000016)

9. The applicant and its constituent landowners shall provide for at least a 3:1 compensation ratio for oak trees greater than 4 inches in diameter that are removed pursuant to project activities identified in water rights Application 30391. Applicant shall cooperate with the Department of Fish and Game to develop and implement a re-vegetation and maintenance plan. Oak trees used for the purpose of compensation shall be native to Sonoma County and may include a mixture of such species. Tree species other than oaks may be planted pursuant to prior approval by the California Department of Fish and Game. The applicant shall maintain an overall success rate of at least two-thirds at the end of five years from planting. The applicant shall procure photographs and record documentation to demonstrate pre-and post project conditions for oak tree removal, compensation, and success.

(0000500)

10. The SWRCB reserves jurisdiction over this permit to change the season of diversion to conform to later findings of the SWRCB concerning availability of water and the protection of beneficial uses of water in the Russian River. Any action to change the authorized season of diversion will be taken only after notice to interested parties and opportunity for hearing.

(0000080)

11. Availability of water for appropriation under this permit during the critical period of approximately July 1 through October 31 is dependent upon water remaining available under the 10,000 acre-foot per annum allocation of water from Lake Mendocino for use in the Russian River Valley in Sonoma County. If subsequent studies show that the above-mentioned allocation has been fully used before use is completed under this permit, a license shall be issued only for the amount of water, if any, which has been put to use under this permit and which is included in the allocation.

(0000081)

12. This permit/license is subject to prior rights. Permittee is put on notice that, during some years, water will not be available for diversion during portions or all of the season authorized herein. The annual variation in demand and hydrologic conditions in the Russian River are such that, in any year of water scarcity, the season of diversion authorized herein may be reduced or

completely eliminated on order of the SWRCB made after notice to interested parties and opportunity for hearing.

(0000090)

**ALL PERMITS ISSUED BY THE STATE WATER RESOURCES CONTROL BOARD
ARE SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

- (A) Permittee shall maintain records of the amount of water diverted and used to enable SWRCB to determine the amount of water that has been applied to beneficial use pursuant to Water Code section 1605.
- (B) The amount authorized for appropriation may be reduced in the license if investigation warrants.
- (C) Progress reports shall be submitted promptly by permittee when requested by the SWRCB until a license is issued.
- (D) Permittee shall allow representatives of the SWRCB and other parties, as may be authorized from time to time by said SWRCB, reasonable access to project works to determine compliance with the terms of this permit.
- (E) Pursuant to California Water Code sections 100 and 275, and the common law public trust doctrine, all rights and privileges under this permit and under any license issued pursuant thereto, including method of diversion, method of use, and quantity of water diverted, are subject to the continuing authority of SWRCB in accordance with law and in the interest of the public welfare to protect public trust uses and to prevent waste, unreasonable use, unreasonable method of use, or unreasonable method of diversion of said water.

The continuing authority of the SWRCB may be exercised by imposing specific requirements over and above those contained in this permit with a view to eliminating waste of water and to meeting the reasonable water requirements of permittee without unreasonable draft on the source. Permittee may be required to implement a water conservation plan, features of which may include but not necessarily be limited to (1) reusing or reclaiming the water allocated; (2) using water reclaimed by another entity instead of all or part of the water allocated; (3) restricting diversions so as to eliminate agricultural tailwater or to reduce return flow; (4) suppressing evaporation losses from water surfaces; (5) controlling phreatophytic growth; and (6) installing, maintaining, and operating efficient water measuring devices to assure compliance with the quantity limitations of this permit and to determine accurately water use as against reasonable water requirements for the authorized project. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such specific requirements are physically and financially feasible and are appropriate to the particular situation.

The continuing authority of the SWRCB also may be exercised by imposing further limitations on the diversion and use of water by the permittee in order to protect public trust uses. No action will be taken pursuant to this paragraph unless the SWRCB determines, after notice to affected parties and opportunity for hearing, that such action is consistent with California Constitution Article X, Section 2; is consistent with the public interest; and is necessary to preserve or restore the uses protected by the public trust.

(F) The quantity of water diverted under this permit and under any license issued pursuant thereto is subject to modification by the SWRCB if, after notice to the permittee and an opportunity for hearing, the SWRCB finds that such modification is necessary to meet water quality objectives in water quality control plans which have been or hereafter may be established or modified pursuant to Division 7 of the Water Code. No action will be taken pursuant to this paragraph unless the SWRCB finds that (1) adequate waste discharge requirements have been prescribed and are in effect with respect to all waste discharges which have any substantial effect upon water quality in the area involved, and (2) the water quality objectives cannot be achieved solely through the control of waste discharges.

(G) This permit does not authorize any act which results in the taking of a threatened or endangered species or any act which is now prohibited, or becomes prohibited in the future, under either the California Endangered Species Act (Fish and Game Code sections 2050 to 2097) or the federal Endangered Species Act (16 U.S.C.A. sections 1531 to 1544). If a "take" will result from any act authorized under this water right, the permittee shall obtain authorization for an incidental take prior to construction or operation of the project. Permittee shall be responsible for meeting all requirements of the applicable Endangered Species Act for the project authorized under this permit.

This permit is issued and permittee takes it subject to the following provisions of the Water Code:

Section 1390. A permit shall be effective for such time as the water actually appropriated under it is used for a useful and beneficial purpose in conformity with this division (of the Water Code), but no longer.

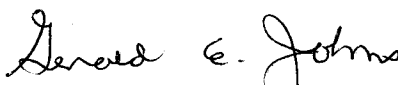
Section 1391. Every permit shall include the enumeration of conditions therein which in substance shall include all of the provisions of this article and the statement that any appropriator of water to whom a permit is issued takes it subject to the conditions therein expressed.

Section 1392. Every permittee, if he accepts a permit, does so under the conditions precedent that no value whatsoever in excess of the actual amount paid to the State therefor shall at any time be assigned to or claimed for any permit granted or issued under the provisions of this division (of the Water Code), or for any rights granted or acquired under the provisions of this division (of the Water Code), in respect to the regulation by any competent public authority of the

services or the price of the services to be rendered by any permittee or by the holder of any rights granted or acquired under the provisions of this division (of the Water Code) or in respect to any valuation for purposes of sale to or purchase, whether through condemnation proceedings or otherwise, by the State or any city, city and county, municipal water district, irrigation district, lighting district, or any political subdivision of the State, of the rights and property of any permittee, or the possessor of any rights granted, issued, or acquired under the provisions of this division (of the Water Code).

Dated: **MAR 09 2000**

STATE WATER RESOURCES CONTROL BOARD


for Chief, Division of Water Rights